

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A HIGHER EDUCATION TRUST FUND WITHIN THE COAL TAX TRUST FUND; ALLOCATING \$32 MILLION TO THE HIGHER EDUCATION TRUST FUND OVER A 3-YEAR PERIOD; PROVIDING THAT 90 PERCENT OF THE INTEREST AND EARNINGS ON THE HIGHER EDUCATION TRUST FUND BE USED TO SUPPORT THE MONTANA HIGH SCHOOL HONOR SCHOLARSHIP PROGRAM AND OTHER STUDENT FINANCIAL AID AND THE OTHER 10 PERCENT OF THE INTEREST AND EARNINGS BE DEPOSITED IN THE HIGHER EDUCATION TRUST FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703, 17-6-308, AND 17-7-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 17-5-703, MCA, is amended to read:

**"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; ~~and~~

(f) a higher education trust fund; and

~~(f)(g)~~ a coal severance tax school bond contingency loan fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

1           (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by state  
2   loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection  
3   (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan  
4   fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)  
5   to be retained in the fund.

6           (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the  
7   balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal  
8   of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12  
9   months.

10          (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly transfer  
11   to the treasure state endowment fund 75% of the amount in the coal severance tax bond fund in excess of the  
12   amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred  
13   pursuant to subsection (3).

14          (b) Beginning July 1, 1999, and ending June 30, 2013, the state treasurer shall quarterly transfer to the  
15   treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund  
16   in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts  
17   that are transferred pursuant to subsection (3).

18          (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure  
19   state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,  
20   required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.  
21   Earnings not transferred to the treasure state endowment special revenue account must be retained in the  
22   treasure state endowment fund.

23          (d) The state treasurer shall monthly transfer from the treasure state endowment regional water system  
24   fund to the treasure state endowment regional water system special revenue account the amount of earnings,  
25   excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the  
26   account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state  
27   endowment regional water system special revenue account must be retained in the treasure state endowment  
28   regional water system fund.

29          (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
30   subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be

1 deposited in the coal severance tax permanent fund.

2 **17-5-703. (Effective July 1, 2003) Coal severance tax trust funds.** (1) The trust established under  
3 Article IX, section 5, of the Montana constitution is composed of the following funds:

4 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
5 severance tax must be deposited;

6 (b) a treasure state endowment fund;

7 (c) a treasure state endowment regional water system fund;

8 (d) a coal severance tax permanent fund;

9 (e) a coal severance tax income fund; ~~and~~

10 (f) a higher education trust fund; and

11 ~~(f)(g)~~ a coal severance tax school bond contingency loan fund.

12 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all  
13 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12  
14 months and retain that amount in the coal severance tax bond fund.

15 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
16 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

17 (3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the  
18 state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax  
19 bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax  
20 bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

21 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the  
22 balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal  
23 of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12  
24 months.

25 (4) (a) Until June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment  
26 fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in  
27 subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection  
28 (3).

29 (b) Until June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment  
30 regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that

1 is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant  
2 to subsection (3).

3 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure  
4 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,  
5 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.  
6 Earnings not transferred to the treasure state endowment special revenue account must be retained in the  
7 treasure state endowment fund.

8 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water system  
9 fund to the treasure state endowment regional water system special revenue account the amount of earnings,  
10 excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the  
11 account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state  
12 endowment regional water system special revenue account must be retained in the treasure state endowment  
13 regional water system fund.

14 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
15 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
16 deposited in the coal severance tax permanent fund. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)

17 **17-5-703. (Effective July 1, 2016) Coal severance tax trust funds.** (1) The trust established under  
18 Article IX, section 5, of the Montana constitution is composed of the following funds:

19 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
20 severance tax must be deposited;

21 (b) a treasure state endowment fund;

22 (c) a coal severance tax permanent fund;

23 (d) a coal severance tax income fund; and

24 (e) a higher education trust fund; and

25 ~~(e)(f)~~ a coal severance tax school bond contingency loan fund.

26 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all  
27 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12  
28 months and retain that amount in the coal severance tax bond fund.

29 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
30 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) (a) Until June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

**Section 2.** Section 17-6-308, MCA, is amended to read:

**"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior

pledge of the revenue to the bonds and notes.

(3) (a) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(b) On July 1, 2004, the board shall transfer \$9 million from the coal severance tax permanent fund to the higher education trust fund. In succeeding years, the board shall transfer the following amounts to the higher education trust fund:

(i) \$12 million on July 1, 2005; and

(ii) \$11 million on July 1, 2006.

(c) The board shall deposit 10% of the interest and earnings on the higher education trust fund in the fund and shall deposit the remaining 90% of the interest and earnings in a state special revenue account to be used to support the Montana high school honor scholarship program established by the board of regents or other student financial aid administered by the board of regents. The money in the state special revenue account is statutorily appropriated, as provided in 17-7-502, to the board of regents for those purposes.

(4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The

1 rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit  
2 corporations.

3 (6) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance  
4 tax trust fund must be deposited in the coal severance tax permanent fund."  
5

6 **Section 3.** Section 17-7-502, MCA, is amended to read:

7 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
8 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
9 the need for a biennial legislative appropriation or budget amendment.

10 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
11 of the following provisions:

12 (a) The law containing the statutory authority must be listed in subsection (3).

13 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
14 appropriation is made as provided in this section.

15 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;  
16 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;  
17 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;  
18 17-6-101; 17-6-308; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;  
19 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;  
20 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;  
21 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518;  
22 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

23 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
24 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
25 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
26 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
27 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
28 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of  
29 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,  
30 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's

1 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates  
2 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710  
3 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December  
4 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

5

6 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2004.

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